

**59th Republican Ward Executive Committee**

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

6145 Germantown Avenue • Philadelphia PA • 19144-2147 • 215-848-5900  
Joseph L. Messa, Esq., Ward Leader • Hon. Peter J. Wirs, Chairman

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2006 SEP 22 A 8:42

Lawrence Norton, Esq.  
Federal Election Commission  
Office of the General Counsel  
999 E Street, N.W.  
Washington, D.C. 20463

Supplement to  
AOR 2006-28

Attention: Amy Rothstein, Esq.

**RE: REPLY FOR INFORMATION RE ADVISORY OPINION**

Dear Attorney Norton:

We reduce to writing various comments in our Thursday, August 31, 2006 telephone conference call for purposes of a record and clarification.

**The Downward Spiral of the Philadelphia Republican City Committee**

It is appropriate to affix the proper frame of reference, so that it is clearly understood that the Philadelphia Republican City Committee is in downward spiral, thus negating comparisons relative the atypical model one would conventionally expect.

1. Since 1951, the City Republicans have won only 13 or 4.2% of 304 competitive municipal election races (excluding the one City Commissioner and the two at large City Council seats guaranteed to minority representation).
2. Republicans are the majority in only one of the 66 Philadelphia wards.
3. Republicans trails independents and minor party registrants in 30 or 45% of all 66 Wards, and in an additional five wards, the difference between Republicans and independents is statistically even.
4. There is no elected Republican committee person in 1,034 or 61.5% of the City's 1,681 divisions (election precincts), as compared to only 85, or 5% of all divisions not having an elected Democratic committee person, after the May 16, 2006 Primary election (in Pennsylvania, party offices are elected in primaries).
5. There is no elected Republican committee person in 9 or 13% of the City's 66 Wards.
6. There is no Republican committee person in half of the divisions within 22 or 33% of the 66 Wards, and only 11 Wards have Republican Committee persons in at least 75% of the Divisions within the Ward.
7. In the past primary only 1,114 filed, and 1,031 were elected as Republican committee persons, 35% of 3,286 candidates and 2,911 elected as Democratic committee persons.

8. Based on the latest 2006 campaign finance reports filed with the Secretary of the Commonwealth, the Philadelphia Republican City Committee, raised \$80,551 or 20.96% of the \$384,142 the Philadelphia City Democratic City Committee raised.
9. Based on the year ending annual campaign finance reports for 2005, (which in Pennsylvania are aggregate sums) City Republicans raised \$24,353 or 6.67% of the \$364,991 the City Democrats raised. The City Republicans spent \$19,686 or 6.22% of what \$316,072 the City Democrats spent.
10. Based on the year ending annual campaign finance reports for 2004, City Republicans raised \$49,616, or 9.34% of City Democrats' \$530,961; and City Republicans spent \$35,866 or 9.13% of the City Democrat's \$392,539,
11. Based on the year ending annual campaign finance reports for 2003, City Republicans raised \$364,185 or 44.37% of the Democrats \$820,623; and the City Republicans spent \$259,353 or 48.76% of the \$531,888 the City Democrats spent.
12. Over the past three years, City Democrats outspent City Republicans by a 10 to 1 ratio.
13. In the past year, City Democrats outspent City Republicans by a 15 to 1 ratio.
14. The Republican City Committee fund raising has declined 94% from the 2003 amount of \$364,185 to the 2005 amount of \$24,353.
15. The Philadelphia Republican City Committee fund raising per capita is \$.03, which is the lowest of all 40 Republican county committees who filed an annual report in 2005, and equaled one and trailed the remaining 23 Democratic county committees
16. The Republican City Committee fund raising per capita is 7% of the statewide average for all Republican county committees of \$.42 fund raising per capita.
17. The Republican City Committee fund raising per capita is 27% of the statewide average for all Democratic county committees of \$.11 fund raising per capita.
18. The Republican City Committee fund raising per capita is 9.6% of the statewide average for all Democratic and Republican county committees of \$.31 fund raising per capita.
19. Based on the 2005 post-campaign finance reports, City Republicans spent 0 funds for street money (which is statutorily authorized under the Pennsylvania Election Code, 25 P.S. § 2687(c), and limited \$120 per diem). The City Democrats spent \$258,825.
20. Based on the 2004 post-campaign finance reports, City Republicans spent for street money \$70,000 or 24.34% of the City Democrats' \$287,558.
21. Based on the 2003 post-campaign finance reports, for street money the City Republicans spent \$86,550 or 18.50% of the City Democrats' \$467,749.
22. Collectively, over the past three years, City Republicans spent \$156,550 on street money, which is only 15.43% of the \$1,014,132 the City Democrats spent on street money.
23. City Republican street money paid to the 59th Republican Ward Leader fell from \$1,000 in 2003, \$400 in 2004, to \$0 in 2005; whereas the 59th Democratic ward counterpart received \$6,250 in 2003, \$2,500 in 2004, and \$3,250 in 2005.
24. Accordingly, the 59th Republican Ward Leader got only 16% of what the 59th Democratic Ward Leader or executive committee got in 2003 and 2004, and 0% in 2005.

25. Over the past three years, the 59th Republican Ward committee persons received \$1,400 or 11.66% of the \$12,000 the 59th Democratic Ward committee persons received.
26. Based on the 2003, 2004 and 2005 campaign finance reports, City Republican street money paid to the combined northwest Philadelphia ward leader, encompassing 9th, 10th, 12th, 21st, 22nd, 50th and 59th Wards, went from \$9,050 in 2003, \$5,900 in 2004, to \$0 in 2005; whereas the City Democratic street money paid to the aforementioned wards leaders or executive committees was \$47,750 in 2003, \$17,510 in 2004, and \$25,000 in 2005
27. Accordingly, the northwest Republican wards received only 18.95% of what the Democrats received in 2003; 33.69% of what the Democrats received in 2004, and 0% of what the Democrats received in 2005.
28. Over the past three years, the northwest Republicans received only 16.56% of the northwest Democrats received in street money.

As we telephonically noted, despite spending \$538,304.91 in 2005, \$ 1,417,801, in 2004, and \$ 1,656,729.21 in 2003, the Pennsylvania State Republican Committee made no contributions to the undersigned or any other district or local committee, according to its campaign finance reports.

#### **Information regarding GOTV**

We also reiterate information relative the Get Out the Vote ("GOTV"). The salient point is what we contemplate is nothing new. Traditionally, GOTV efforts were the exclusive domain of local and district political party committees, candidate committees' intrusion, albeit the annoying dinner phone call, is a recent phenomenon. The remarkable attribute, if any, is merely our employment of software and online voter databases, provided in our case by Aristotle, Inc. (nation's leading such campaign service vendor) for voter identification, 11 CFR 100.24(a)(4), a function once satisfied by the institutional memory resulting from longevity of committee persons' service and then GOTV, as defined under 11 CFR 100.24(a)(3), on Election Day.

We are authorized under the Pennsylvania Election Code, 25 P.S. § 2687(c), to make payments up to \$120 per diem to "poll watchers." We have not asked the Commission in our AOR whether such is within the "travel and subsistence or customary token payments" allowance to volunteers under 11 CFR 100.87(d), since we presume that state law governs in the absence of specifically delineated preemption under the applicable Federal statute.

#### **Payment for Vice Presidential Expenses**

We also believe that expenses incurred relative security, etc., for a potential Vice Presidential attendance to the Oktoberfest of Germantown event would be held as a contribution under 11 CFR 100.53, notwithstanding the mandatory nature of such expenses or that the Vice President is not a candidate, since a Vice Presidential visit, if any, would be in substantive part, to benefit a Federal candidate(s). Security expenses commonly associated with a presidential or vice-presidential visit includes installation of additional, dedicated telephone lines, and closing of ancillary passages, etc.

Tuesday, September 5, 2006 Reply to Information re Advisory Opinion by  
59th Republican Ward Executive Committee  
Page 4 of 4

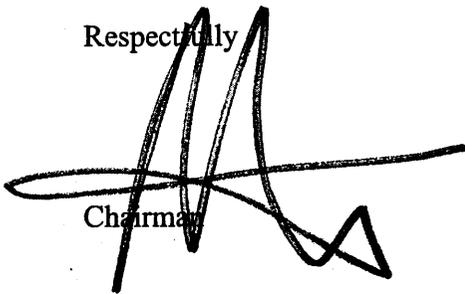
**Responses to Anticipated Objections**

Anticipated objections to our AOR will be predicated on material fallacy through omission of one of the two controlling premises. See Aldisert, LOGIC FOR LAWYERS, A GUIDE TO CLEAR LEGAL THINKING (3rd ed. 1007) at pp.167-168; Schlag and Skiver, TACTICS OF LEGAL REASONING (1986) at 16. Regardless whether a donor can make a \$10,000 contribution under 11 CFR 110.1(c)(5) to more than one political party entity, still will not exempt the donor from the biannual campaign contribution limit. 2 U.S.C. § 441a((a)(3), 11 CFR 110.5(b). Conversely, granting a district or local committee independent status under 11 CFR 110.3(b)(3) does not decrease the amount the state or city/county committee is otherwise entitled to under 11 CFR 110.1(c)(5). Accordingly, any anticipated objection to our AOR is merely a material fallacy.

To the contrary, for the Commission to recognize what the Pennsylvania courts have long recognized, that a district or local committee is “independent” of its state (or city/county) political party committee, in actuality fosters the public policy remedy to which McCain-Feingold envisioned, being both the “general participatory self-government objective,” Breyer, OUR DEMOCRATIC CONSTITUTION, 77 N.Y.L.Rev. 245, 252 (2002), in addition to traditional anticorruption concerns under *Buckley v. Valeo*, 424 U.S. 1 (1976). See generally, Hasen, BUCKLEY IS DEAD, LONG LIVE BUCKLEY, 153 U.Pa. L.Rev. 31 (2004). Distributing campaign contributions to the lower end of the political party hierarchy — the district and local committee — not only dilutes the access and influence which a campaign contribution would otherwise obtain at the higher end of the political party hierarchy, but enhances citizen participation in the democratic process.

We hope that memorializing the various points of the aforementioned telephone conference call further enhances the Commission Advisory Opinion process. Thank you very much for your consideration in this matter.

Respectfully

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Chairman

cc: State Republican Committee counsel  
File